

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

NOT FOR PUBLICATION

DLR

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TYSEAN MORONTA

Petitioner,

MEMORANDUM AND ORDER

-against-

09-CV-1346 (ARR)

THE STATE OF NEW YORK,

Respondent.

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ROSS, United States District Judge:

Plaintiff Tysean Moronta, who is currently in custody at Upstate Correctional Facility in Malone, New York, brought this *pro se* action in the United States District Court for the Western District of New York on February 27, 2009. The case was transferred to the Eastern District of New York on March 31, 2009, because the complaint was construed as a petition for a writ of habeas corpus. On April 8, 2009, this court issued an order directing plaintiff to clarify whether he intended to file a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, or whether he intended to file civil rights complaint pursuant to 42 U.S.C. § 1983. Subsequently, plaintiff timely informed the court that his intention was to file a civil rights action.

The venue provision governing federal question jurisdiction requires that the action be filed in the judicial district where the defendant resides or where a substantial part of the events or omissions giving rise to the claim occurred. See 28 U.S.C. § 1391(b). Here plaintiff alleges that he was deprived of his constitutional rights by officials at the Elmira Correctional Facility, that is located in Chemung County. Therefore, venue is proper in the United States District Court for the Western District of New York, and the court orders the case transferred back to that district.

Conclusion

For the foregoing reasons, the Clerk of the Court is ordered to transfer the case to the United States Court for the Western District of New York.

SO ORDERED.

/S/

ALLYNE R. ROSS
United States District Judge

Dated: Brooklyn, New York
April 17, 2009

Service List
Tysean Moronta
07-R-4558
Upstate Correctional Facility
Box 2001
Malone, NY 12953